

REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Delegated Decision Reference Number - FPPI2 11/12

Decision	
1	Title of decision: 41 Estover Close (First Floor), Estover, Plymouth PL6 7PL – Acquisition of lease
2	Decision maker (Cabinet Member): Councillor Ian Bowyer, Cabinet Member for Finance, Property and People
3	Decision author and contact details: Ian Gillhespy, Senior Valuation Surveyor, Finance Assets and Efficiencies, Corporate Support Email: ian.gillhespy@plymouth.gov.uk Tel: 01752 305566
4	Decision to be taken: Approval to the Council accepting a transfer of the lease, to which the Council is already guarantor, of the first floor of 41 Estover Close, Estover.
5	Reasons for decision: Corporate Plan 2011-14: Provide Value for Communities Customer satisfaction with all public services and the Council offering Value For Money. Obtaining maximum value for money from the £150,000 Targeted Capital Funding from the Department for Children Schools and Families expended on the purchase of equipment and the payment of a lease premium.
6	Alternative options considered: <ul style="list-style-type: none"> A) The lease be transferred directly to another party. By taking a transfer of the lease the Council can exercise direct control over the future occupation of the premises, including the terms of occupation and thereby better mitigate any liability which may accrue to the Council as existing guarantor. The Council will be able to control the transfer or subletting of the premises to another party or occupy for Council purposes. B) The Council guarantee to underwrite a minimum level of room hire income to support the current tenant to continue to trade. There is no budget available or justifiable rationale for supporting the current tenant to the extent required. The costs to the Council of occupying the whole of the premises, including rent, service charge, business rates and outgoings are estimated to be less than the guarantee required by the current tenant. The external hiring of meeting / training rooms is contrary to the Council's adopted Corporate Accommodation Strategy which seeks to maximise the use of meeting / training facilities directly provided by the Council.

7	<p>Financial implications:</p> <p>As guarantor of the lease the Council is already ultimately liable for the rent, service charge, outgoing and other costs attributable to the lease in default by the tenant. Following any transfer of the lease to the Council, the Council could mitigate any costs by endeavouring to transfer the lease or sublet the premises to a third party or by occupying for Council purposes. Revenue costs for negotiating and documenting any subletting of the premises will be met from within existing revenue budgets.</p> <p>Services for Children and Young People (SCYP), as controlling Department for the leased premises, have expressed a continuing short term need for suitable and sufficient meeting / training rooms due to the closure of the training facilities at the former Southway Community College and pending the refurbishment of Windsor House and other Council accommodation as part of the Corporate Accommodation Strategy. Budget provision has been identified by SCYP which could be used to pay the revenue costs of the premises.</p> <p>VAT is payable in respect of the lease costs and the Council should therefore 'opt to tax' the premises if the lease is transferred to it. This would mean that any subtenant would be charged VAT on sublease costs (which would be a direct cost to the subtenant if it is not VAT registered).</p> <p>An initial lease premium was paid funded through the Council's Capital Programme from Targeted Capital Funding from the Department for Children Schools and Families. The financial benefit of a reduced initial rent until 19 August 2013 resulting from the payment of the lease premium would be best protected by the Council initially taking a transfer of the lease.</p> <p>The lease contains a provision for the tenant only to terminate the lease on 20 August 2013 subject to the service of appropriate written notice.</p>			
8	Is the decision a Key Decision?	Yes		(if ticked, complete section 9)
		No	X	(If ticked, proceed to section 10)
9	Date added to the Forward Plan?	Not applicable		
10	Please specify how this decision is linked to the policy framework and/or budget:	Corporate Plan 2011-14: Provide Value for Communities		
11	Is the decision a case of special urgency?	Yes	X	(if ticked, ensure that the Chair of the Overview and Scrutiny Management Board signs the report at section 11a and section 11b is completed)
		No		(if ticked, proceed to section 12)
11a	<u>Signature</u>			<u>Date</u>
	<u>Print Name</u>			

11b	Reason for urgency: The Directors of HealthTec propose to cease trading and wind up the company imminently. Any delay in the Council accepting a transfer of the lease could result in control of the lease, and the financial benefit of the reduced rent resulting from the payment of the lease premium, being taken away from the Council and passing to a liquidator which could expose the Council as guarantor to the lease to potentially greater financial risk.			
Consultation				
12	Are any other Cabinet Members affected by the decision?	Yes	X	(if ticked, complete sections 13 and 14)
		No		(if ticked, proceed to section 15)
13	Which other Cabinet Member is affected?	Councillor Samantha Leaves, Children and Young People		
14	Has this Cabinet Member been consulted?	Yes	X	
		No		
15	Which Corporate Management Team member has been consulted?	Adam Broome, Director for Corporate Support Bronwen Lacey, Director for Services for Children and Young People		
16	Please include the sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DSO381112	
		Finance (mandatory)	AM ChS0359	
		Legal (mandatory)	JTR13130	
		Human Resources	N/A	
		Asset Management		
		IT	N/A	
		Procurement	N/A	
Other Information				
17	Is the decision in accordance with an Equalities Impact Assessment?	Yes	X	(For further advice, contact Assistant Director for Safer Communities, ext. 4388)
		No		
18	State how the decision supports the City and Council Priorities.	Corporate Plan 2011-14: Provide Value for Communities		

Background Papers									
19	<p>Please list all background papers relevant to the decision in the table below. <i>(If not attached, indicate where it can be accessed either electronically or in hard copy. Any confidential (Part II) information should be included in background papers only and <u>not</u> in this delegated decision template. If the background paper is Part II, please indicate why the background paper is not for publication by virtue of Exemption Paragraph(s) (E1 – E7) of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in the table).</i></p>								
Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
HealthTec Plymouth Project – Acquisition of premises – Delegated Decision and Briefing Paper – FPPG 7 09/10 www.plymouth.gov.uk/modgov?modgovlink=http%3A%2F%2Fwww.plymouth.gov.uk%2FmgInternet%2FieDecisionDetails.aspx%3FID%3D1851		X			X				
41 Estover Close (First Floor), Estover, Plymouth PL6 7PL – Acquisition of lease – Briefing Paper	X								
41 Estover Close (First Floor), Estover, Plymouth PL6 7PL – Acquisition of lease – Briefing Paper (Part II)		X			X				
Cabinet Member Signature									
20	I agree the decision and confirm that it is not contrary to the Council’s policy and budget framework, City Strategy, Corporate Plan and Medium Term Financial Plan.								
<u>Signature</u>		<u>Date</u>							
<u>Print Name</u>									